

## **TAB 19**

## 2.4.2 Asbestos Property Damage Litigation

Asbestos PD Claims generally purport to seek payment for the cost of removing or containing asbestos in buildings. On the Petition Date,<sup>13</sup> there were eight asbestos property damage lawsuits (not including the ZAI lawsuits described immediately below) pending against the Debtors.<sup>14</sup> However, approximately 4,300 Asbestos PD Claims were submitted prior to the March 2003 Bar Date. The Debtors have examined these Claims, and intend to object to all or almost all of them on a number of different grounds. Such grounds may include: insufficient or lack of supporting documentation; lack of product identification; statute of limitations, statute of repose, and laches; lack of negligence; inapplicability of strict liability; lack of causation; and improper calculation of damages. Under the Plan, those Asbestos PD Claims not disallowed through the objection process will be channeled to the Asbestos Trust, the assets of which the Debtors believe will be sufficient to satisfy all legitimate Asbestos PD Claims.

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<sup>13</sup> Prior to the Petition Date, out of 380 asbestos property damage cases filed, 141 were dismissed without payment of any damages or settlement amounts; judgments were entered in favor of the Debtors in nine cases (excluding cases settled following appeals of judgments in favor of Grace); judgments were entered in favor of the plaintiffs in eight cases (one of which is on appeal) for a total of \$86.1 million; and 207 property damage cases were settled for a total of \$696.8 million.

<sup>14</sup> Plaintiffs in these eight lawsuits are seeking damages allegedly arising from the presence of Grace's asbestos-containing acoustical plaster as well as Monokote-3 fireproofing in their buildings. Debtors are aware of approximately 300 buildings involved. Two cases are currently on appeal (Solow -- judgment against Grace of approximately \$11.6 million -- and Ohio Hospital -- summary judgment granted for Grace); one case has been stayed since 1990 (Jefferson Parish) and Grace was dismissed at the trial level in another case (District of Columbia -- not a final order). Four cases are pending: Anderson Memorial (motion to certify the class granted as to the other defendants but stayed with respect to Grace as motion was pending as of the Petition Date), Orange County (putative class action served), Pacific Freeholds (case pending against but stayed as to Grace) and Prudential (case pending against but stayed as to Grace). Proofs of Claim were filed with respect to buildings at issue in each of the above actions except District of Columbia.